

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA DIVISION**

TENTATIVE RULINGS

EVENT DATE: 08/14/2018
JUDICIAL OFFICER: Kevin DeNoce

EVENT TIME: 08:20:00 AM

DEPT.: 43

CASE NUM: 56-2017-00504174-CU-BT-VTA
CASE TITLE: AYALA VS ALEXANDER BUICK GMC

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Business Tort

EVENT TYPE: Demurrer (CLM)
CAUSAL DOCUMENT/DATE FILED: Demurrer, 07/06/2018

This case has been assigned to Judge DeNoce for all purposes. The morning calendar before Judge Kevin G. DeNoce will begin at 9 a.m. in courtroom 43. Cases including *ex parte* matters will not be called prior to 9 a.m. Please check in with the courtroom clerk by no later than 8:45 a.m. If appearing by Court Call, please call in between 8:35 and 8:45 a.m.

If you wish to submit on the court's tentative decision, please send an email to the court at: Courtroom43@ventura.courts.ca.gov stating that you submit on the tentative, and copy all counsel/parties on your email. Do not call in lieu of sending an email. If you submit on the tentative without appearing and the opposing party appears, the hearing will be conducted in your absence.

Absent waiver of notice and in the event an order is not signed at the hearing, the prevailing party shall prepare a proposed order and comply with CRC 3.1312 subdivisions (a), (b), (d) and (e). The signed order shall be served on all parties and a proof of service filed with the court. A "notice of ruling" in lieu of this procedure is not authorized.

For general information regarding Judge DeNoce and his courtroom rules and procedures, please visit: <http://www.denoce.com>

Defendant R&A Alexander Investments LLC's Demurrer to Plaintiff Salvador Ayala's 1st Amended Complaint.

The court's tentative ruling is as follows:

The court intends to sustain, with leave to amend, Defendant R&A Alexander Investments LLC's general demurrer to the fifth cause of action for violation of the Consumer Legal Remedies Act in Plaintiff Salvador Ayala's 1st Amended Complaint, on the grounds that (a) the Act only creates a right of action in "consumers" (see Civil Code §1780(a)); and (b) Plaintiff fails to allege facts indicating that he actually sought or acquired the subject Vehicle, and therefore fails to allege facts indicating that he satisfies the Act's definition of the term "consumer" (see Civil Code §1761(d)) and therefore has standing to bring a claim under the Act.

Plaintiff's 2nd Amended Complaint to be filed and served by no later than September 4, 2018.